

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3091
Administrative Law Judge Division
July 17, 2002

R E S O L U T I O N

RESOLUTION ALJ 176-3091. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

ALJ/hkr

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

ALJ/hkr

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on July 17, 2002, the following Commissioners voting favorably thereon:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN
Executive Director

LORETTA M. LYNCH
President

HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3091 (July 17, 2002)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-06-038 ONEPOINT COMMUNICATIONS - COLORADO, L.L.C., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A02-06-039 FONETEL, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A02-06-042 ALAMEDA CORRIDOR - EAST CONSTRUCTION AUTHORITY (ACE) FLASHING LIGHTS), for Authority to add flashing light signals with gates, vehicle presence detection systems, and exit gate control systems, creating four-quadrant gate systems under General Order 75-C, Sections 6.71 and 10, at five grade crossings in the City of Pomona, County of Los Angeles.	Ratesetting	Ratesetting	NO
A02-06-043 RIDLEY TELEPHONE COMPANY, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A02-06-044 TRALEE TELEPHONE COMPANY, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A02-06-045 INTELLIGENT COMMUNICATIONS INTERNATIONAL, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A02-06-046 ECONODIAL, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3091 (July 17, 2002)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-06-048 HARBOR BAY MARITIME, INC. (VCC-69), a California corporation (VCC-69), for rate Relief and a General Passenger Fare increase on its Vessel Common Carrier Service on San Francisco Bay between the Harbor Bay Ferry Terminal in Alameda and authorized points in San Francisco.	Ratesetting	Ratesetting	NO
A02-06-049 WHOLESALE AIRTIME, INC., (U 5751-C), for an order expanding the scope of its existing Certificate of Public Convenience and Necessity to include authority to provide (i) Facilities-Based competitive Local Exchange service throughout the service territories of Pacific Bell Telephone Company, Verizon California, Inc., Roseville Telephone Company, and Citizens Telecommunications Company of California, Inc.; and (ii) Facilities-Based Interexchange services statewide.	Ratesetting	Ratesetting	NO
A02-06-050 WESTAR MARINE SERVICES, DIVISION OF CROSS LINK, INC., (VCC-72), for Authorization to Modify Rate Levels for Passenger Service from Pier 50 San Francisco to Points on San Francisco Bay and adjoining Bays and Tributaries.	Ratesetting	Ratesetting	NO
A02-06-051 PACIFIC GAS AND ELECTRIC COMPANY, (U 39-E), Proposing the Extension of the Pilot Programs for Customer Ownership of Gas Meters and Gas Meter Add-On Devices that were adopted in D00-05-049.	Ratesetting	Ratesetting	NO
A02-06-052 GRENADA SANITARY DISTRICT, LANGFORD, WANDA M., dba GRENADA WATER COMPANY, Joint Application of Wanda M. Langford, dba Grenada Water Company to sell, and the Grenada Sanitary District to buy, the water system in Grenada, Siskiyou, County.	Quasi-legislative	Ratesetting	NO
A02-06-053 COGNIGEN NETWORKS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO

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A02-06-054 KERMEN TELEPHONE CO., (U 1012-C), pursuant to Public Utilities Code Sections 816 through 851, for authority to Issue notes in an aggregate amount not exceeding \$6,936,700 and to mortgage utility property.	Ratesetting	Ratesetting	NO
A02-07-001 SOUTHERN CALIFORNIA GAS COMPANY, (U 904-G), for Approval of Program Year 2003 Low-Income Assistance Programs and Funding.	Ratesetting	Ratesetting	YES
A02-07-002 SAN DIEGO GAS & ELECTRIC COMPANY, (U 902-M), for Approval of Program Year 2003 Low-Income Assistance Programs and Funding.	Ratesetting	Ratesetting	YES
A02-07-003 PACIFIC GAS AND ELECTRIC COMPANY, (U 39-M), for Approval of the 2003 California Alternate Rates for Energy and Low Income Energy Efficiency Programs and Budget.	Ratesetting	Ratesetting	YES
A02-07-004 SOUTHERN CALIFORNIA EDISON COMPANY, regarding Low Income Assistance Programs for Program Year 2002.	Ratesetting	Ratesetting	YES
A02-07-005 TELLISS, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A02-07-006 COUNTY OF SANTA CLARA, for Authorization to widen Lafayette Street Overhead over the tracks and right of way of the Union Pacific Railroad Company in the City and County of Santa Clara, State of California.	Ratesetting	Ratesetting	NO
A02-07-007 NORSTAR COMMUNICATIONS, INC., dba BUSINESS SAVINGS PLAN, UNIVERSAL BROADBAND COMMUNICATIONS, INC., dba BUSINESS SAVINGS PLAN, for Approval of an Asset Purchase and Sale Agreement and to Transfer the CPCN of Norstar, a Non-Dominant Interexchange Carrier operating in California, to Universal.	Ratesetting	Ratesetting	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-07-009 SOUTHWEST GAS CORPORATION, (U 905-G) for Authority to Adjust Public Purpose Program Surcharges.	Ratesetting	Ratesetting	YES
A02-07-010 WESTEX COMMUNICATIONS, LLC, for a Certificate of Public Convenience and Necessity to Offer Limited Facilities-Based Local Exchange, Access and Interexchange Services.	Ratesetting	Ratesetting	NO
A02-07-011 CITY OF PALO ALTO, for Approval of the Construction of the Homer Avenue Pedestrian and Bicycle Grade Separation of the CalTrain right of way owned by the Peninsula Corridor Joint Power Board located in the City of Palo Alto.	Ratesetting	Ratesetting	NO
A02-07-012 VERACOM NETWORKS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO